



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Public hearing to consider resolution confirming the 2003-04 Annual Report and levy assessment for Downtown Lodi Business Improvement Area No. 1

MEETING DATE: November 19, 2003

SUBMITTED BY: Janet S. Keeter, Deputy City Manager

RECOMMENDATION: That the City Council, following the Public Hearing, there being no majority protest, either written or oral presented to the Council, adopt the Resolution confirming the Business Improvement Area No. 1 2003-2004 Annual Report and thereby levying the assessment as proposed.

BACKGROUND INFORMATION: The Downtown Lodi Business Improvement Area No. 1 2003-2004 Annual Report was presented to the City Council on October 15, 2003. The Council accepted the Report and established November 19, 2003 as the Public Hearing date during which time the public would have an opportunity to present written or oral protests to the assessment being proposed. The Public Hearing is established pursuant to Section 36535 of the California Streets and Highways Code.

In order for such a protest to be successful, the protest must comply with the provisions of Sections 36524 and 35535 of the California Streets and Highways Code. Protests must be received from the owners of businesses in the improvement area, and must represent fifty percent (50%) or more of those member businesses paying the assessments proposed to be levied. If such a level of protest is not reached, a Resolution should be adopted by the Council confirming the report as originally filed, or as changed by the Council. The adoption of such Resolution constitutes the levy of the assessment for the Business Improvement Area during calendar year 2004.

Attached is a copy of the Downtown Lodi Business Improvement Area No. 1 2003-2004 Annual Report.

Funding: Not applicable

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Janet S. Keeter", followed by a long horizontal line.

Janet S. Keeter
Deputy City Manager

cc: Pam Hayn, DLBP Executive Director
Peter Westbrook, DLBP Board President

APPROVED: _____

A handwritten signature in cursive script, appearing to read "H. Dixon Flynn", followed by a long horizontal line.

H. Dixon Flynn -- City Manager

When Recorded, Return to:
City of Lodi City Clerk's Office
P.O. Box 3006
Lodi, CA 95241-1910

RESOLUTION NO. 2003-219

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LODI CONFIRMING THE 2003-04 ANNUAL REPORT FOR
THE DOWNTOWN LODI BUSINESS IMPROVEMENT AREA
NO. 1 AND LEVY OF ASSESSMENT

=====

WHEREAS, Downtown Lodi Business Improvement Area No. 1 was established December 17, 1997, by Council adoption of Ordinance No. 1654; and

WHEREAS, the Annual Report, as required by Streets and Highways Code §36533, has been submitted to the City Council by the Board of Directors of said Improvement Area; and

WHEREAS, a public hearing was held as required by Streets and Highways Code §36524 on November 19, 2003, in the City Council Chambers at Carnegie Forum, 305 West Pine Street, Lodi, California, at 7:00 p.m., or as soon thereafter as possible, to consider protests to the assessment levy.

NOW, THEREFORE, the City Council of the City of Lodi does hereby resolve, determine, and find as follows:

- 1) The required public hearing was duly held, at which time the public was allowed to present written or oral protests to the levy of assessment for Downtown Lodi Business Improvement Area No. 1.
- 2) A majority protest as defined in the Streets and Highways Code §36525 was not made.
- 3) The 2003 Annual Report as submitted on October 15, 2003, by the Board of Directors of the Improvement Area to the City Council is hereby confirmed as originally filed.
- 4) The confirmation of the report and adoption of this resolution constitutes the levy of the assessment as contained in the Annual Report for the calendar year 2004.

Dated: November 19, 2003

=====


I hereby certify that Resolution No. 2003-219 was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 19, 2003, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hansen, Howard, Land, and Mayor Hitchcock

NOES: COUNCIL MEMBERS – None

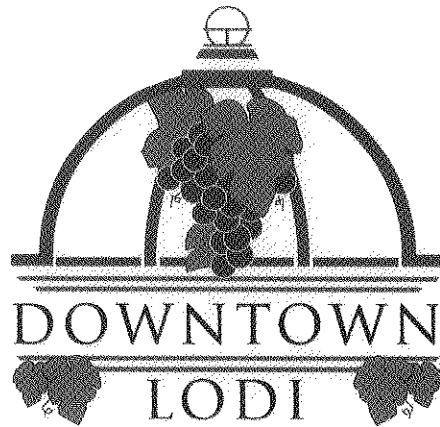
ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None



SUSAN J. BLACKSTON
City Clerk

DOWNTOWN LODI BUSINESS PARTNERSHIP



2003/2004 REPORT

2003/2004 ANNUAL REPORT TO THE CITY OF LODI

Items listed below refer to Section 36533(b) of the California Streets and Highway Code

1. No changes in boundaries of benefit zones within the area are proposed.
2. No physical improvements are planned.
3. Budget for the "Budget year July 1 2003 through June 2004 is enclosed. (Exhibit B)
4. A Benefit Fee Schedule and a Map of the Business Improvement Area are enclosed as Exhibits C & D respectively. There are no changes in the Benefit Fee Schedule.
5. The Budget details all sources of income and projected expenses.

Exhibit A

The Downtown Business Improvement District---is the central core of the City of Lodi. Like any city, the Downtown area is the City's **heart, soul and face.**

The City and its business partner's, include the land owners, business investors, merchants, and the Downtown Lodi Business Partnership --have turned things around. Even with the great progress.....**we will always be a work in progress.** Business areas that are not in a perpetual mode of change will die.... The DLBP intends to maintain the historical character of the Downtown, while evolving it into **The Community Shopping and Dining Center of Lodi.**

The City basically owns the infrastructure of a large "Community Shopping Center," ---spread out over many blocks, instead of being concentrated in a grouping of buildings similar to the format of a privately owned shopping center. Along with the businesses and merchants---**being represented by the Downtown Lodi Business Partnership (DLBP)**---we work with the City staff to manage the downtown. We establish and administer procedures for use of streets for various activities and events. **The DLBP is your front line management for our Community Shopping Center** working to enhance that infrastructure to be a destination place for all Lodian's and visitors alike.

The **DLBP** has been in existence for over four years. We have created a stronger downtown with teamwork. Our very active board of directors is the main leadership element of the partnership and continues to work effectively to represent and unify the merchants. Along with the Executive Director and staff of the DLBP we have accomplished the following in the last year....

- **Continued the expansion of all events and projects including an expanded Farmers Market, Kiddie Parade, the larger than ever, Parade of Lights, See's Candy Project, Christmas promotions including a cooperative effort on a Santa project with the Fire Department, and a new Halloween kids parade.**
- **Collaborated with the Lodi Chamber of Commerce to produce two very successful "School Street Wine Stroll. "**
- **Presented a new 4 day holiday event, Downtown Lodi Dickens Faire. Downtown Lodi Streets became a Victorian era holiday scene with street performers and merchants wearing authentic Victorian era attire along with horse drawn carriage rides and roasted chestnuts.**
- **Brought the first ever ice rink to Lodi. Hundreds of young and young at heart flooded downtown for a chance to glide across the glimmering ice.**
- **Our Parking Committee and staff continued to work with City staff on parking management.**

- Set up an Economic Development Committee to coordinate and interface with the City's overall economic development program. Our Web site www.downtownlodi.com... now has a listing of property owners to aid potential businesses with the availability of lease space in the Downtown.
- The Web page for the DLBP also provides the individual Downtown Merchants the opportunity to have their own web page and contains a complete listing of all merchants in the Downtown Area. This service is monitored by the DLBP staff in cooperation with one of our key downtown merchants....Shared Network Services, who has provided this service at no charge to the DLBP.
- Developed an area use policy for organizations that want to use the Community Shopping Center streets for events.
- Facilitated member concerns and been an advocate on behalf of our merchants.
- Held the second annual---Family Faith Festival---which took place in August and drew over 12 thousand people to our Downtown. The event was open to ALL faiths.
- Collaborated with the Lodi Visitors & Convention Bureau to make our members aware of this agencies fine work, and their role in supporting Downtown.

Continued City funding will be crucial to the success of this organization---and will be for some time to come. The Downtown that we have built together will continue to change and grow. We are now in the second phase of development and can look forward to continuing successes.

Our success---the City of Lodi and the Downtown Business Partnership, working together---is just beginning. We thank the **City Council and City Staff** for all of the support that has been provided to the downtown and the DLBP.

We would ask for your patience during this time of transition, as we bring on our new Executive Director, Pamela Hayn-Peel. The goal of the City and the DLBP is the same.....To have a profitable and thriving downtown.

**WE AGAIN THANK YOU--- FOR YOUR CONTINUED SUPPORT
IN THIS PARTNERSHIP**

Marketing Plan For The Year 2003/2004

Purpose & Goals

Our basic marketing plan is to use the **many events** listed above as the primary tool of showing off our beautiful Downtown area. We will continue to develop **additional events** with our ultimate goal of making **Downtown Lodi the valleys Entertainment Mecca**.

The goal of the 2003/2004 marketing plan is multi-faceted, it contains an integrated advertising plan, an outline of the various events, from the ongoing established events, to the **potential** new items, a proposed public relations program, and finally an internal component for marketing to our merchant constituents.

The promotional plan is designed to send the message of Downtown Lodi to established customers in our immediate marketing area, do an outreach to secondary out laying market areas, and to visitors passing through our community. We will continue to use and promote "**Your Community Shopping Center**", "**Downtown Lodi, It's The Place To Be**".

Continue full program of member services in order to assist members with their business and allow them to take advantage of our combined resources. These programs consist of: the newsletter, membership meetings, New business information packages, Parking management/committee, Marketing and promotions committee, Restaurant Committee, and an office staff to serve the membership and the public. We will also continue to serve as an advisory advocate for the membership in dealing with the City of Lodi.

ADVERTISING & PROMOTIONAL TOOLS

NEWSPAPER - We primarily used the Lodi News Sentinel the last two years. We will continue to do so, but with the majority of the advertising being done in a tabloid format. We will do 8 tabs in 2003 and plan 8 tabs in 2004.

In addition we will use the Galt Herald, and The Record on a limited basis for promoting events.

BILLBOARDS - Because this is a prohibitively costly tool for marketing, it will only be used if there is enough interest, on a cooperative basis. Example---if our restaurant and entertainment groups or furniture groups or any combination thereof wanted to participate.

WEBSITE - We will continue to develop and promote our web site to the general public, general membership and community organizations. Linking with various organizations such as the City of Lodi, Lodi News Sentinel and the Chamber of Commerce.

We will also encourage our business members to further develop their own web sites, and hold one or two seminars to assist them with their site development.

BROCHURES - Continue to print and expand on the distribution of our Downtown brochures. These brochures will be available to downtown businesses, the Chamber office, Visitors Bureau, City of Lodi and the DLBP office.

GENERAL MEMBER BUSINESS PROMOTION AND PUBLIC RELATIONS: We will continue to feature business profiles in our tab and encourage the Lodi News Sentinel business editor to do articles about downtown businesses. We will continue to do press releases for new and expanded businesses downtown.

PROGRAM DEVELOPMENT

DOWNTOWN DISCOUNT - We will develop a "Downtown Lodi Discount Coupon" to be given primarily by restaurants, but suggested to other merchants as well. The target market will be Lodi, North Stockton, Elk Grove, South Sacramento and the Eastern Foothill areas. Featuring a full-page color ad--using our non profit structure-- we will design, bill and place the advertising once per month.

Depending on interest and participation this program will start in February 2004, and run for 6 months after which, the results will be analyzed for possible continued use.

SHOP LODI PROGRAM - The purpose of this program is to convince consumers to shop Lodi first before going out of town to do their buying.

Shopping locally permits the local businesses to expand and allows them to underwrite community events, support charities, sponsor youth activities and generally help the community from which they derive their well being.

Sales tax is one of the most important sources of funding that pays for the city of Lodi Police, fire, maintenance personnel, street services, and all other city functions. Sales tax for the city of Lodi income needs to be improved.

Shop Lodi goals will be to increase purchases made in Lodi thereby increasing retail sales and sales tax revenue.

The purpose of this program is to educate the public and increase community awareness of the benefits of making their purchases in Lodi.

We will need to enlist the cooperation of the City of Lodi, the Lodi Chamber of Commerce, and the Lodi Visitors and Convention Bureau to promote the Shop Lodi Program.

It is recommended that this program be developed to start in the Fall months---October through December.

- Niche marketing plans----Definition---Niche strategies for Downtown---this marketing concept is valid when you have a group of like businesses that can be marketed as a group. Examples for our downtown are Restaurant group (30+), Furniture (4 major plus several peripheral stores), and entertainment (stadium 12, Movie City, Casablanca, Crape vines Etc)
 - Establish a restaurant page in the tab
 - Articles and group ads for furniture
 - Entertainment grouping.

RADIO AND CABLE TV---These two medias will NOT be a part of our NORMAL usage. If budget allows, we will consider using these for special events only. These medias take large advertising budgets to be effective---currently we do not fall into this category.

PROTFOLIO PRESENTATIONS—We are in the process of developing four portfolio presentations---New Member Packets, Visitors & Convention Bureau hand out, City of Lodi Economic Development hand out, and Local Consumers handout.

All portfolios will feature our Downtown Brochure. The local hand out will also contain Downtown Coupons, as will the V&CB hand out. The City hand out will be directed at potential new Downtown businesses and also be used to educated other businesses considering locating into our area.

SEE'S CANDY—We will continue to build on this promotion. In 2002 we had over 18 merchants participate and sold over 2,500 pounds of candy. This program gives existing customers a reason to make additional trips into our merchants. It also attracts new customers into the Downtown---those not wanting to travel to Stockton or Sacramento to the See's outlets.

We will continue to work on ways to refine and improve this program---by requiring better merchant displays, window postings and individual merchant advertising. It will be an educational process to convince and show the merchants that they should also advertise this service on their own to draw customers into their stores.

EVENTS

Events over the last several years have been the main stay of the marketing program---drawing well over 100,000 people to the Downtown. We will continue to rely on the existing events, and improve on them.

EXISTING EVENTS

- Farmers Market/Star Search
- Downtown Lodi Live/Family Faith Festival
- Kiddie Parade/expanded parade concept
- Halloween Candy give away---Costume parade
- Parade of Lights
- Dickens Festival

NEW EVENTS---in the planning stage

- Car Dealers Show---Thurs Friday & Saturday---
- Downtown Lodi Live/Musical review---featuring oldies and jazz
 - July Summer time jazz---on Elm Street
 - August---a Country Music festival---with the Farmers Market

We may from time to time add new events **only if there is a distinct profit potential**

FUTURE GOALS

- Introduce more Downtown Lodi Live events—Make Downtown Lodi the Entertainment Mecca for the valley
- Continue to build a collaborative relationship with the City Council—Keep our Partnership focused and fresh
- Develop more collaborative events with organizations such as the Lodi Visitors and Convention Bureau, Lodi Chamber of Commerce, The Boys & Girls Club, Lodi House, and similar organizations
- Expand the boundaries of the Business Improvement District by 2004/2005
- Outreach to the general community, and expand major corporate sponsorship interest in events and other participation in the “Community Shopping Center”
- Review and update the Assessment Fee Schedule by for the assessment year of 2005 to better reflect the membership benefits and an equitable fee structure
- Expand our volunteer base for the Downtown Events by reaching into the community
- Develop additional strategies with the City Staff for better programs in the following areas----directional signage for the Downtown, creative parking solutions, Economic Development, management and commercial use of the new parking structure, and billing/collections
- Develop and submit a 5 year plan for the Downtown by September 2004

MISSION STATEMENT

DOWNTOWN LODI BUSINESS PARTNERSHIP

The Downtown Lodi Business Partnership is a non-profit corporation, comprised of businesses that make up the Downtown business community. The main goal is to encourage growth and prosperity in the Downtown Community Shopping Center of Lodi and to maintain its economic health on an ongoing basis. This will be accomplished by;

- Encouraging development of new businesses while retaining and revitalizing existing businesses
- Promoting retail activity by creating and maintaining a quality environment through coordinated advertising and Downtown events
- Serving as an advocate for Downtown businesses in dealing with local government, maintenance projects, the media and the general public

September 2003

Downtown Lodi Business Partnership
Budget

July 1, 2003 through June 30, 2004

| | <u>Budget 03/04</u> |
|---------------------------------|-----------------------|
| Ordinary Income/Expense | |
| Income | |
| 3500 · Income Accounts | |
| Assessments | 30,000.00 |
| Booth Rental | 17,000.00 |
| City of Lodi Funds | 47,000.00 |
| Float Entry | 8,000.00 |
| Food Vendor | 4,000.00 |
| Sales-Beer & Wine | 5,000.00 |
| Sales-Misc. | 1,000.00 |
| See's Candy | 25,000.00 |
| Sponsorship | 30,000.00 |
| Ticket Sales | 10,000.00 |
| Total 3500 · Income Accounts | <u>177,000.00</u> |
| Total Income | <u>177,000.00</u> |
| Cost of Goods Sold | |
| Cost of Goods Sold | |
| See's candy | 17,500.00 |
| Beer & Wine | 2,500.00 |
| Misc, sales | 1,000.00 |
| Total COGS | <u>21,000.00</u> |
| Gross Profit | 156,000.00 |
| Expense | |
| 6000 · Advertising | |
| Newspaper | 12,000.00 |
| Posters/Banners/Signs | 10,000.00 |
| 6000 · Advertising - Other | 5,000.00 |
| Total 6000 · Advertising | <u>27,000.00</u> |
| 6001 · Bank Service Charges | 300.00 |
| 6002 · Contributions | 0.00 |
| 6003 · Dues & Subscriptions | 300.00 |
| 6004 · Credit Card Fees | 400.00 |
| 6010 · Event Expense | |
| Entertainment-Event | 4,000.00 |
| Food & Drink-Event | 2,000.00 |
| Games-Event | 1,000.00 |
| Ice Rink-Event | 0.00 |
| Labor-Event | 2,000.00 |
| Promotions-Event | 1,000.00 |
| Rentals-Event | 1,500.00 |
| Sanitation-Event | 2,500.00 |
| Set Up-Event | 600.00 |
| Supplies Misc.-Event | 2,000.00 |
| 6010 · Event Expense - Other | <u>1,000.00</u> |

Downtown Lodi Business Partnership
Budget

July 1, 2003 through June 30, 2004

| | Budget 03/04 |
|--|--------------|
| Total 6010 · Event Expense | 17,600.00 |
| 6170 · Holiday Decorations/Events/Lights | 8,000.00 |
| 6180 · Insurance | |
| Liability Insurance | 7,000.00 |
| Work Comp | 2,000.00 |
| 6180 · Insurance - Other | |
| Total 6180 · Insurance | 9,000.00 |
| 6200 · Janitorial | 1,300.00 |
| 6201 · Kiosk Updates | 1,250.00 |
| 6230 · Licenses/Permits/Inspections | 2,500.00 |
| 6235 · Office Supplies | 5,000.00 |
| 6250 · Postage and Delivery | 2,000.00 |
| 6270 · Professional Fees | |
| Accounting | 700.00 |
| Bookkeeping | 900.00 |
| Coordinators/Planners | 1,500.00 |
| CDA Conference | 0.00 |
| 6270 · Professional Fees - Other | 500.00 |
| Total 6270 · Professional Fees | 3,600.00 |
| 6290 · Rent | 5,040.00 |
| 6300 · Repairs | |
| 6320 · Computer Repairs/service | 400.00 |
| 6300 · Repairs - Other | 200.00 |
| Total 6300 · Repairs | 600.00 |
| 6340 · Telephone | |
| Internet | 600.00 |
| 6340 · Telephone - Other | 1,000.00 |
| Total 6340 · Telephone | 1,600.00 |
| 6395 · Map & Directory Brochures | 0.00 |
| 6396 · Meals & Entertainment | 300.00 |
| 6398 · Meetings | 450.00 |
| 6399 · Mileage | 400.00 |
| 6400 · Miscellaneous | 500.00 |
| 6560 · Payroll Expense | 65,000.00 |
| 6570 · Returned check | 0.00 |
| 6820 · Taxes | 3,000.00 |
| Federal | |
| Local | |
| State | |
| Total 6820 · Taxes | 3,000.00 |
| Total Expense | 155,140.00 |
| Net Ordinary Income | 860.00 |

1:59 PM
04/07/03
Cash Basis

Downtown Lodi Business Partnership

Budget

July 1, 2003 through June 30, 2004

| | <u>Budget 03/04</u> |
|----------------------|---------------------|
| Other Income/Expense | |
| Other Income | 160.75 |
| Other Expense | 54.91 |
| Net Other Income | <u>105.84</u> |
| Net Income | <u>965.84</u> |

EXHIBIT C
Downtown Lodi Business Partnership
Benefit Fee Schedule

| | ZONE A | ZONE B |
|---------------------------|---|----------------------------|
| Retailers and Restaurants | \$200. (1-3 emp.) \$300. (4-6 emp.) \$400. (7 + emp.) | \$100. \$150. \$200. |
| Service Businesses | \$150. | \$ 75. |
| Professional Business | \$100. | \$ 50. |
| Financial Institutions | \$500. | \$500. |

Note: Retail and restaurant businesses will be charged on size which will determined by the number of employees, either full-time or the equivalent made up of multiples of part-time employees.

Business type definitions:

Retail and Restaurant: Businesses that buy and resell goods, examples are clothing stores, shoe stores, office supplies as well as businesses that sell prepared foods and drinks.

Service Businesses: Businesses that sell services. Examples are beauty and barber shops, repair shops, lodging, most automotive-oriented businesses, entertainment businesses such as theaters, etc.

Professional Businesses: Includes Architects, Engineers, Attorneys, Dentists, Doctors, Accountants, Optometrists, Realtors, Insurance Offices, Mortgage Brokers and most other businesses that require advanced and/or specialized licenses and/or advanced academic degrees.

Financial Institutions: Includes banking and savings and loan institutions as well as credit unions, etc.

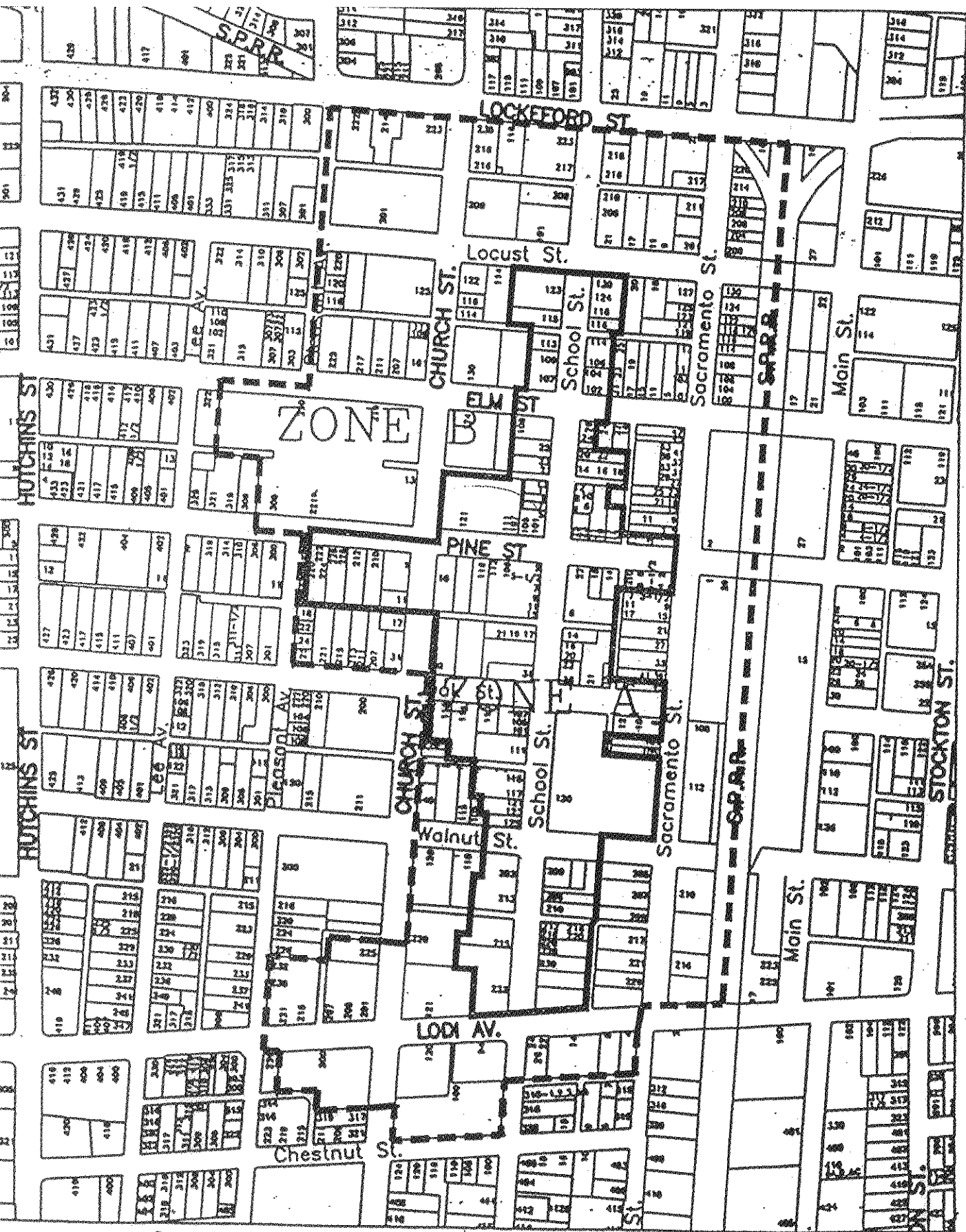


EXHIBIT D
DOWNTOWN LODI BUSINESS PARTNERSHIP
BUSINESS IMPROVEMENT AREA MAP

PROOF OF PUBLICATION

(2015.5 C.C.C.P.)

STATE OF CALIFORNIA

County of San Joaquin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the Lodi News-Sentinel, a newspaper of general circulation, printed and published daily except Sundays and holidays, in the City of Lodi, California, County of San Joaquin and which newspaper had been adjudicated a newspaper of general circulation by the Superior Court, Department 3, of the County of San Joaquin, State of California, under the date of May 26th, 1953. Case Number 65990; that the notice of which the annexed is a printed copy (set in type not smaller than non-pareil) has been published in each regular and entire issue of said newspaper and not in any supplement thereto on the following dates to-wit:

October 25th

all in the year 2003

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated at Lodi, California, this 25th day of

October, 2003

Signature

This space is for the County Clerk's Filing Stamp

RECEIVED

OCT 30 2003

City Clerk
City of Lodi

Proof of Publication of
Notice of Public Hearing
City of Lodi
Resolution No. 2003-198

Notice of Public Hearing
RESOLUTION NO. 2003-198

A RESOLUTION OF INTENTION TO LEVY ANNUAL ASSESSMENT FOR DOWNTOWN LODI BUSINESS IMPROVEMENT AREA NO. 1, ESTABLISHING PUBLIC HEARING DATE, AND RECEIVING ANNUAL REPORT

WHEREAS, Downtown Lodi Business Improvement Area No. 1 was established December 17, 1997, by Council adoption of Ordinance No. 1654; and

WHEREAS, the Annual Report as required by Streets and Highways Code 36533 has been submitted to the Council by the Board of Directors of said improvement area.

NOW, THEREFORE, the City Council of the City of Lodi does hereby resolve, determine, and find as follows:

1. Receive the Annual Report as submitted, said Report being on file with the City Clerk.
2. Establishes November 19, 2003, in the City Council Chambers, at Carnegie Forum, 305 West Pine Street, Lodi, California, at 7:00 p.m., or soon thereafter as possible, as the date, place, and time to hold the public hearing required by Streets and Highways Code 36533.
3. It is the intention of the City Council to levy and collect assessments within the parking and business improvement area for calendar year 2004 (the Area's fiscal year).
4. The boundaries of the entire area to be included in the Area and the boundaries of each separate benefit zone within the area set forth in the Map, Exhibit A, incorporated herein by reference. A true and correct copy of the map is on file with the city Clerk of the City of Lodi.
5. The types of improvements and activities proposed to be funded by the levy of assessments on business in the Area are in Exhibit B hereto and incorporated by reference.
6. At the time of the public hearing, written and oral protests may be made. The form and manner of protests shall comply with Streets and Highways Code 36534 and 36525.

Dated: October 15, 2003

I hereby certify that Resolution No. 2003-198 was passed and adopted by the City Council of the City of Lodi in a regular meeting held October 15, 2003, by the following vote:

AYES: COUNCIL MEMBERS — Beckman, Hansen, Howard, Land, and Mayor Hitchcock
NOES: COUNCIL MEMBERS — None
ABSENT: COUNCIL MEMBERS — None
ABSTAIN: COUNCIL MEMBERS — None

s: SUSAN J. BLACKSTON
City Clerk

EXHIBITS A & B AND FURTHER INFORMATION REGARDING THIS MATTER MAY BE OBTAINED IN THE OFFICE OF THE CITY MANAGER/ECONOMIC DEVELOPMENT, 221 W. PINE ST., LODI.

Anyone wishing to be heard on the issue may appear before the City Council at the time of the public hearing. Written statements may be filed with the City Clerk, 221 W. Pine St., 2nd floor, Lodi, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

All proceedings before the City Council are conducted in English. The City of Lodi does not furnish interpreters, and, if one is needed, it shall be the responsibility of the person needing one.

If you challenge the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk/City Council at, or prior to, the public hearing.
October 25, 2003

CITY COUNCIL

SUSAN HITCHCOCK, Mayor
EMILY HOWARD
Mayor Pro Tempore
JOHN BECKMAN
LARRY D. HANSEN
KEITH LAND

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702
FAX (209) 333-6807
cityclrk@lodi.gov

H. DIXON FLYNN
City Manager
SUSAN J. BLACKSTON
City Clerk
RANDALL A. HAYS
City Attorney

October 16, 2003

Downtown Lodi Business Partnership
Attention: Executive Director
P.O. Box 1565
Lodi, CA 95241

**RE: RESOLUTION OF INTENTION TO LEVY ANNUAL ASSESSMENT FOR
DOWNTOWN LODI BUSINESS IMPROVEMENT AREA NO. 1, ESTABLISHING
PUBLIC HEARING DATE, AND RECEIVING ANNUAL REPORT**

The Lodi City Council, at its meeting on October 15, 2003, adopted the enclosed Resolution of Intention to Levy Annual Assessment for Downtown Lodi Business Improvement Area No. 1.

A public hearing regarding this matter has been set before the Lodi City Council on Wednesday, **November 19, 2003**, in the City Council Chambers, at the Carnegie Forum, 305 West Pine Street, at 7:00 p.m., or as soon thereafter as the matter may be heard. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the public hearing.

Should you have any questions, please feel free to contact my office.

Sincerely,



Susan J. Blackston
City Clerk

JMP

Enclosure

RESOLUTION NO. 2003-198

A RESOLUTION OF INTENTION TO LEVY ANNUAL
ASSESSMENT FOR DOWNTOWN LODI BUSINESS
IMPROVEMENT AREA NO. 1, ESTABLISHING PUBLIC
HEARING DATE, AND RECEIVING ANNUAL REPORT

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WHEREAS, the Annual Report as required by Streets and Highways Code §36533 has been submitted to the Council by the Board of Directors of said improvement area.


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3. It is the intention of the City Council to levy and collect assessments within the parking and business improvement area for calendar year 2004 (the Area's fiscal year).
4. The boundaries of the entire area to be included in the Area and the boundaries of each separate benefit zone within the area are set forth in the Map, Exhibit A, incorporated herein by reference. A true and correct copy of the map is on file with the City Clerk of the City of Lodi.
5. The types of improvements and activities proposed to be funded by the levy of assessments on business in the Area are in Exhibit B hereto and incorporated by reference.
6. At the time of the public hearing, written and oral protests may be made. The form and manner of protests shall comply with Streets and Highways Code §§36524 and 36525.

Dated: October 15, 2003

I hereby certify that Resolution No. 2003-198 was passed and adopted by the City Council of the City of Lodi in a regular meeting held October 15, 2003, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hansen, Howard, Land, and Mayor Hitchcock
NOES: COUNCIL MEMBERS – None
ABSENT: COUNCIL MEMBERS – None
ABSTAIN: COUNCIL MEMBERS – None



SUSAN J. BLACKSTON
City Clerk

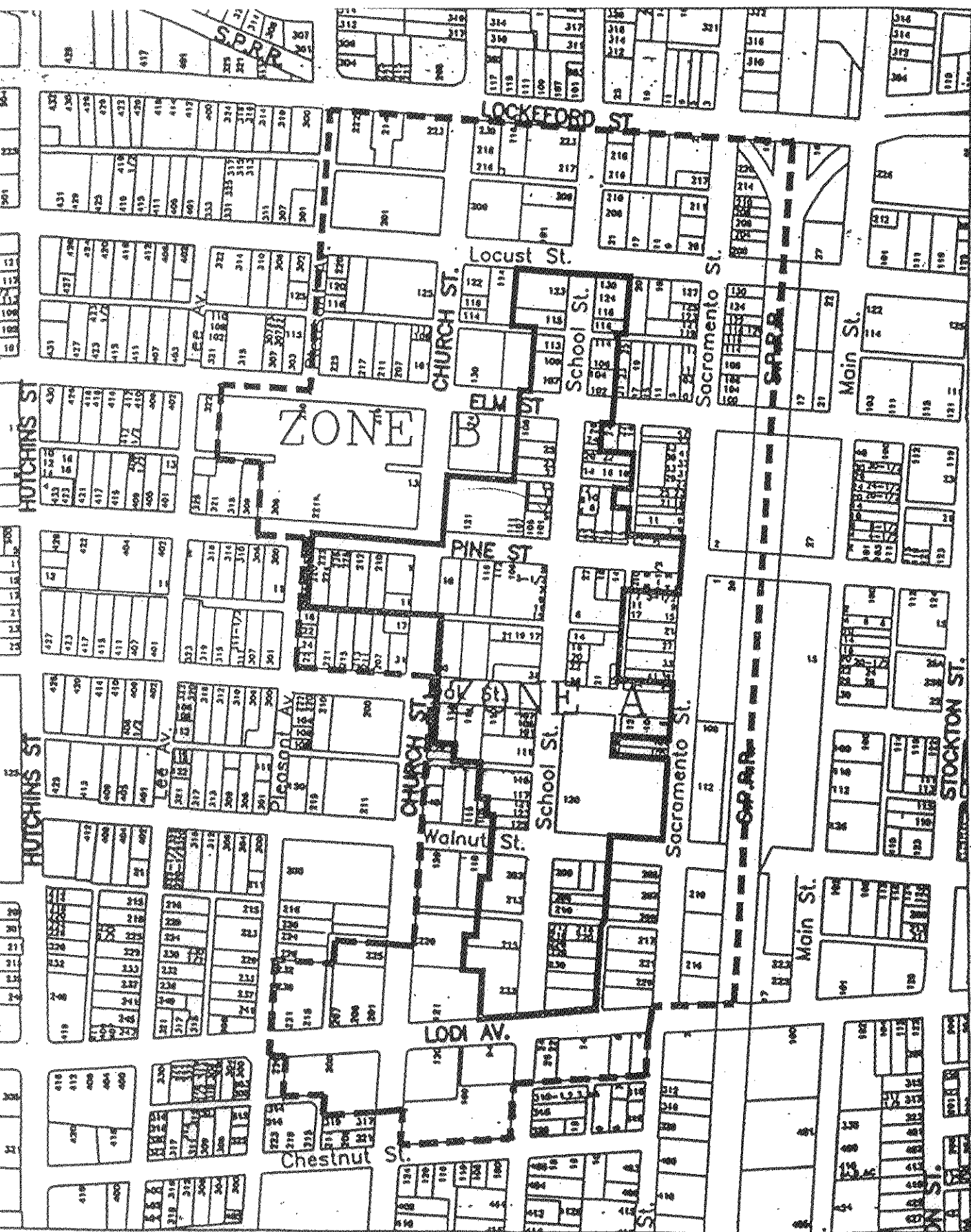


EXHIBIT D

DOWNTOWN LODI BUSINESS PARTNERSHIP
BUSINESS IMPROVEMENT AREA MAP

EXHIBIT A

EXHIBIT B**Downtown Lodi Business Partnership
Benefit Fee Schedule**

| ZONE A | | ZONE B |
|------------------------------|---|----------------------------|
| Retailers and Restaurants | \$200. (1-3 emp.) \$300. (4-6 emp.) \$400. (7 + emp.) | \$100. \$150. \$200. |
| Service Businesses | \$150. | \$ 75. |
| Professional Business | \$100. | \$ 50. |
| Financial Institutions | \$500. | \$500. |

Note: Retail and restaurant businesses will be charged on size which will determined by the number of employees, either full-time or the equivalent made up of multiples of part-time employees.

Business type definitions:

Retail and Restaurant: Businesses that buy and resell goods, examples are clothing stores, shoe stores, office supplies as well as businesses that sell prepared foods and drinks.

Service Businesses: Businesses that sell services. Examples are beauty and barber shops, repair shops, lodging, most automotive-oriented businesses, entertainment businesses such as theaters, etc.

Professional Businesses: Includes Architects, Engineers, Attorneys, Dentists, Doctors, Accountants, Optometrists, Realtors, Insurance Offices, Mortgage Brokers and most other businesses that require advanced and/or specialized licenses and/or advanced academic degrees.

Financial Institutions: Includes banking and savings and loan institutions as well as credit unions, etc.

FUTURE GOALS

- Introduce more Downtown Lodi Live events—Make Downtown Lodi the Entertainment Mecca for the valley
- Continue to build a collaborative relationship with the City Council—Keep our Partnership focused and fresh
- Develop more collaborative events with organizations such as the Lodi Visitors and Convention Bureau, Lodi Chamber of Commerce, The Boys & Girls Club, Lodi House, and similar organizations
- Expand the boundaries of the Business Improvement District by 2004/2005
- Outreach to the general community, and expand major corporate sponsorship interest in events and other participation in the “Community Shopping Center”
- Review and update the Assessment Fee Schedule by for the assessment year of 2005 to better reflect the membership benefits and an equitable fee structure
- Expand our volunteer base for the Downtown Events by reaching into the community
- Develop additional strategies with the City Staff for better programs in the following areas---directional signage for the Downtown, creative parking solutions, Economic Development, management and commercial use of the new parking structure, and billing/collections
- Develop and submit a 5 year plan for the Downtown by September 2004

CITY COUNCIL

SUSAN HITCHCOCK, Mayor
EMILY HOWARD
Mayor Pro Tempore
JOHN BECKMAN
LARRY D. HANSEN
KEITH LAND

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702
FAX (209) 333-6807
cityclrk@lodi.gov

H. DIXON FLYNN
City Manager
SUSAN J. BLACKSTON
City Clerk
RANDALL A. HAYS
City Attorney

November 21, 2003


Downtown Lodi Business Partnership
Attention: Pamela Hayn, Executive Director
P.O. Box 1565
Lodi, CA 95241

**RE: RESOLUTION CONFIRMING THE 2003-04 ANNUAL REPORT FOR THE
DOWNTOWN LODI BUSINESS IMPROVEMENT AREA NO. 1 AND LEVY OF
ASSESSMENT**

The Lodi City Council, at its meeting on November 19, 2003, adopted the enclosed resolution confirming the 2003-04 Annual Report for the Downtown Lodi Business Improvement Area No. 1 and levy of assessment.

Should you have any questions, please feel free to contact my office.

Sincerely,



Susan J. Blackston
City Clerk

JMP

Enclosure

filed 11-19-03

Tim Vallem, owner November 19, 2004
Old Town Antiques & Collectables
121 S. School St.
Lodi, Ca.

Pg 1 of 5

I am here to protest the approval of the 2004 billing of the annual Downtown Lodi Business Partnership (DLBP) assessment. I am not speaking for any group or other individual. I believe the City Council has failed to meet the pre-requisites allowing the 2004 billings.

As I am sure you all are aware the word "shall" means mandatory in law. The word "may" allows some flexibility. Throughout the codes I will cover the word "shall" is used in every code.

The Downtown Business Area (BIA) was created in 1997 pursuant to California Streets and Highway Law of 1989, Code 36500.

When the Downtown Lodi Business Improvement Area, (BIA) was established in 1997 the City created the City Code 12.06. Included in the Code is sub-section 12.06.110. This City Code has been violated by the City Council for several years including this year.

City Code 12.06.110

"Pursuant to the Act, it shall be necessary for the board to present, by September 1st, an annual budget for city council review and approval prior to beginning any billing period"

The "board" is the Advisory Board, not the DLBP Board.

Streets and Highways Code 36530 mandates the City Council appoints an Advisory Board.

Streets and Highways Code 36505 defines "Advisory Board" as " the board or commission appointed by the city council pursuant to Section 36530". The BIA business owners elect the DLBP Board of Director members and the City has no input or control as they would with the Advisory Board.

Streets and Highways Code 36533 (a) mandates the Advisory Board prepare a annual budget report for each fiscal year for which assessments are to be levied.

These two required provisions, the Advisory Board and the Budget from the Advisory Board, have never been complied with.

Streets and Highways Code 36522 describes what shall be done in the formation of the BIA.

Sub-section (G) describes the public hearing required to levy assessments which is required following the resolution of intention. The resolution of intention was held and approved October 15th. The code mandates this meeting tonight shall be held "not less than 20 or more than 30 days after the adoption of the resolution of intention". We are now in the 35th day.

Streets and Highways Code 36523 mandates;

- (A) Publishing the resolution of intention in a local newspaper and that was done;
- (B) (B) "Mailing of a complete copy of the resolution of intention by first-class mail to each business owner in the area within seven days of the city council's adoption of the resolution of intention". The mailing should have been done by Oct 22nd and in fact was never done and has not been done in prior years.
- (C) There are business owners in the BIA who does not live in Lodi. Not everyone reads the legal notices. Not everyone follows the City Council meetings. Not every business owner is aware of this meeting tonight. Item (B) is required to insure notice of the proceedings.

What did happen was the DLBP Annual Report was presented to the City Council October 15th, not the Annual Budget from the Advisory Board and not prior to Sept 1st. Following the October Council meeting the City did published the State required notice in the newspaper several times. The notice indicates compliance with the State Code 36533 when in fact the City was not in compliance. It is clear the City Council has failed to meet the State and City Code requirements and approval of the 2004 billing is prohibited.

In addition the City Code, Chapter 12.06, Downtown Lodi Business Improvement Area No. 1, needs to be reviewed and the following sub-sections re-written in order to comply with the California Streets and Highways Code under which the BIA was formed and must follow.

12.06.040, must be an Advisory Board, not the DLBP Board of Directors.

Streets and Highways Code 36530-36537

The City uses the DLBP Board of Directors in place of the required Advisory Board. Lodi City Code 12.06.040 mandates the DLBP have a Board of Directors and describes the Board in detail.

Also the reference to votes being weighted by dollar amount of assessment. Nothing in the Streets and Highways Code allows any vote being based on assessment amount.

I don't believe the City Council can direct, by Code, any private entity how to run their organization.

It is my belief the City is overstepping their boundaries with this City Code Section and Section 12.06.040 must be revised.

City Code 12.06.050, Purpose and Use of benefit fees states in detail how the money may be used. DLBP is not mentioned or included. If the money is turned over to the DLBP it is a "donation" and how it is used is out of the City hands. The same as "donations" to Chamber of Commerce, Salvation Army, BOBS and other organizations the City helps support with "donations".

Streets and Highways Code 36513 defines "activities" and the City Code indicates how the funds are used in relation to improvements, promotions, etc. Turning the funds over to DLBP only serves to partially meet their fixed expenses. In fact the 2004 budget for DLBP expense indicates \$80,640.00 just for rent, utilities, insurance and payroll. Any additional projected DLBP income is derived from donations and profit from activities. The projections may in fact not materialize as projected. The only absolute income listed is the Assessment Fees and City contribution, a total of \$47,000.00. The Assessment fees would be committed toward paying fixed expenses, contrary to State Code requirements.

12.06.090, The assessment fees collected remains with the City, and at the discretion of only the City Council as to its use, with recommendations from the Advisory Board. The fees are not to be forwarded "to the area". Streets and Highways Code 36003

Also included in this sub-section is the requirement the City and Advisory Board establish a collection procedure. The "collection procedure" has never been formally established in writing.

12.06.100, Voluntary contributions apply to DLBP, not the City. Remove reference to the DLBP Board of Directors.

12.06.110, clarify "board" as Advisory Board. Streets and Highways Code 36530 mandates the City Council appoints an Advisory Board

12.06.120, the funds remain with the City and there is not a board with any authority, only an Advisory Board.

There have been statements by DLBP Board members that the City has a contract with DLBP to manage the BIA. The only reference to a "contract" is found in Streets and Highways Code 36651 and does not apply. The "contract" relates only to BIA Property Owner Assessment and property owners association. The City has not adopted that code.

The DLBP was formed under California Corporations Code as a Non-Profit Corporation, Not for Public Use. DLBP is not an extension of the City and the City has no jurisdiction over DLBP. Jurisdiction rests with the San Joaquin County Superior Court, California Corporations Code 8323.

If the City Council votes tonight to approve the 2004 Assessment it is then bound by City Code 12.06.090 to forward the funds to DLBP.

The issue of DLBP being a private Non-Profit Corporation is much like the recent BOBS situation where both the City Attorney and the Deputy City Attorney have publicly stated the City has no power over a private corporation. That loss of authority then violates State Streets and Highways Code 36003 and City Code 12.06.060 in the use of the funds.

I believe any individual Council Member who would knowingly vote in violation of any law could be held liable.

A handwritten signature in black ink, appearing to read "Tim Vallem", is written over a horizontal line.

Tim Vallem
Old Town Antiques

Applicant's Signature

City of Lodi, California

2003 Business Tax Certificate

Vallem, Timothy
Old Towne Antiques
121 S School St
Lodi CA 95240-0000

License No: 3103
Partnership
Issued: Jan 1, 2003
Expires: Dec 31, 2003



Certificate granted pursuant to the provisions of Ordinance 1607.
Possession of this certificate shall not authorize, permit, or allow you
to do any act which you would not otherwise be lawfully entitled to do.

Vicky Mathie

Finance Director